



**Public Advocates Office**  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, California 94102  
Tel: 415-703-1584  
[www.publicadvocates.cpuc.ca.gov](http://www.publicadvocates.cpuc.ca.gov)

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California Customer Choice Team  
[customerchoice@cpuc.ca.gov](mailto:customerchoice@cpuc.ca.gov)

Subject: Informal Comments of the Public Advocates Office on *California Customer Choice Project: Draft Gap Analysis/Choice Action Plan*.

## **INTRODUCTION**

The Public Advocates Office of the California Public Utilities Commission (Cal Advocates), formerly the Office of Ratepayer Advocates,<sup>1</sup> submits these comments on the draft white paper, *California Customer Choice Project: Draft Gap Analysis/Choice Action Plan*,<sup>2</sup> which was prepared by California Public Utilities Commission (CPUC or Commission) staff and sent to the service lists for the numerous CPUC proceedings that are impacted by the issues identified in the document.

The Public Advocates Office supports customer choice and the Commission's efforts to ensure that the electricity market can function with increasing numbers of market participants. However, it is important that in the process of forging the parameters of this new diversified marketplace, we do not sacrifice reliability, affordability, and cooperation. Presently, there are a number of Commission proceedings that are addressing specific challenges related to the increasing number of Load Serving Entities (LSEs). For example, in the Integrated Resource Planning (IRP)<sup>3</sup> proceeding, all LSEs throughout the state must submit procurement plans to the Commission in order to allow the Commission to evaluate the optimal portfolio of resources for California to meet greenhouse gas (GHG) reduction goals, reliability, and other state goals as defined by Senate Bill (SB) 350.<sup>4</sup> Any recommendations for future actions must be consistent and in compliance with existing Commission rules and proceedings.

## **RESPONSES TO QUESTIONS POSED**

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<sup>1</sup> The Office of Ratepayer Advocates was renamed the Public Advocates Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which was signed by the Governor on June 27, 2018 (Chapter 51, Statutes of 2018).

<sup>2</sup> *California Customer Choice Project: Draft Gap Analysis/Choice Action Plan*, served on October 3, 2018. The draft white paper is also referred to herein by the shorter title of "Gap Analysis paper."

<sup>3</sup> Rulemaking (R.) 16-02-007.

<sup>4</sup> SB 350, De León. Clean Energy and Pollution Reduction Act of 2015.

### Question 3: Does California ensure universal electric service?

The Gap Analysis paper states that the Public Utilities code does not define or set parameters for the provider of last resort (POLR).<sup>5</sup> The question of which entity should be the POLR also came up in the Green Book,<sup>6</sup> indicating that there is a need for the Commission to codify the provider of last resort obligations. However, the Public Utilities Code and certain Commission Decisions clearly reference and outline the POLR role.

The Public Advocates Office noted in its comments to the Green Book<sup>7</sup> that the investor-owned utilities (IOUs) have an obligation to serve customers in their service territory,<sup>8</sup> and are the identified provider of last resort in that service territory.<sup>9</sup> Furthermore, Public Utilities Code Section 330(d) states,

The commission has found...that the interests of ratepayers and the state as a whole will be best served by moving from the regulatory framework existing on January 1, 1997, in which *retail electricity service is provided principally by electrical corporations subject to an obligation to provide ultimate consumers in exclusive service territories with reliable electric service at regulated rates*, to a framework under which competition would be allowed in the supply of electric power and customers would be allowed to have the right to choose their supplier of electric power. [Emphasis added.]

The above excerpt more specifically describes the role and requirements of the IOUs as providers of last resort under the previous regulatory model. Although the IOUs are no longer the exclusive retail electricity providers for customers within their service territories, the duties of the POLR remain the same.

Presently, some customers have the option to receive electricity from community choice aggregators (CCAs), or direct access (DA) providers. These alternative providers' rates are not regulated by the CPUC. The POLR must be able to provide reliable and affordable electric service to any and all customers within a given area, including customers who live in remote areas and are difficult and/or expensive to serve. In order for the Commission to ensure that the POLR has the financial security and the economic incentive to provide affordable and reliable service to *all* customers, the Commission must have regulatory oversight over the POLR's rates.

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<sup>5</sup> *California Customer Choice Project: Draft Gap Analysis/Choice Action Plan*, October 2018, p. 22.

<sup>6</sup> *California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market*, August 2018, p. 22.

<sup>7</sup> Informal Comments of the Office of Ratepayer Advocates on *Draft California Customer Choice: An Evaluation of Regulatory Framework Options for an Evolving Electricity Market*, p. 17.

<sup>8</sup> Decision (D.) 02-10-062, issued in Rulemaking (R.) 01-01-024, in *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*, Conclusion of Law 2, p.72 ("Consistent with Pub. Util. Code Sections 451, 761, 762, 768, 770, and proposed 454.5(a), the utilities have an obligation to serve." [Emphasis added.])

<sup>9</sup> D.04-01-050, Interim Opinion issued in R.01-10-024, *Order Instituting Rulemaking to Establish Policies and Cost Recovery Mechanisms for Generation Procurement and Renewable Resource Development*, p. 56.

An unregulated load serving entity (LSE) may determine that it is not economically feasible to extend service to some customers and may not have any incentive to do so.

Barring any major changes to the existing regulatory framework, the POLR in a given area must be the incumbent IOU because it is the only entity capable of providing affordable service to all customers due to its access and maintenance of the grid infrastructure, regulatory oversight, and financial stability. Although customers would still have the right to choose their supplier of electric power, the regulated utilities should retain the obligation to provide affordable, reliable electricity at regulated rates to customers within their service territories who either do not have the choice of another retail electric service provider or who have opted not to choose a CCA or DA provider.

The POLR issue must be separate and distinct from the discussions surrounding an LSE's duty to serve. The Gap Analysis paper describes the duty to serve as an LSE's obligation to establish safety standards and protocols,<sup>10</sup> as well as provide emergency services,<sup>11</sup> reliability products,<sup>12</sup> and distributed energy resources (DERs)<sup>13</sup> for its customers. Each of these services and standards is mandated by an existing CPUC proceedings and/or processes.<sup>14</sup>

The Public Advocates Office supports CCAs' and DA providers' efforts to comply with safety standards as well as provide emergency services, reliability products, and DERs to their customers. Proceedings at the Commission and other agencies provide LSEs with forums to work together to develop a coordinated plan to meet these duties. The POLR, however, is not and should not be a single entity that is responsible for all of these services for all customers within a given service territory. Rather, the POLR is the utility that is truly the last resort for customers with no other options for electric service. Every LSE has a duty to serve, but only one can be the provider of *last* resort.

### **Question 5: How does California consider the transition of utility obligations?**

The Gap Analysis paper rightly identifies the challenge that California faces with regard to the procurement of system reliability resources. All LSEs have the authority to procure resources on behalf of their customers, but without coordination or centralization, these LSEs run the risk of over- or under-procurement of system, local, and flexible reliability resources. The Commission is considering many proposals, including the possibility of a central buyer, in the Resource Adequacy (RA) proceeding.<sup>15</sup> The Commission has the authority to establish RA requirements,

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<sup>10</sup> *California Customer Choice Project: Draft Gap Analysis/Choice Action Plan*, October 2018, p. 20.

<sup>11</sup> *Ibid*, pp. 19-20.

<sup>12</sup> *Ibid*, pp. 39-42.

<sup>13</sup> *Ibid*, pp. 33-34.

<sup>14</sup> Emergency and Safety, Rulemaking (R.) 15-06-009; Resource Adequacy, R.17-09-020; DER, R.14-08-013.

<sup>15</sup> R.17-09-020.

including system and local area reliability, for all LSEs,<sup>16</sup> and to require the LSEs to demonstrate their RA compliance in their individual integrated resource plans.<sup>17</sup> In addition, the Commission is evaluating, in the IRP proceeding,<sup>18</sup> the optimal portfolio of resources for California to meet GHG reductions, reliability, and other state goals as defined by SB 350. Any proposals or suggestions for meeting the challenge for reliability procurement must be consistent with Commission proceedings and decisions, and with legislative mandates.

Respectfully submitted,

/s/ MEA HALPERIN  
MEA HALPERIN

Senior Regulatory Analyst  
Public Advocates Office  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
(415) 703-1368

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<sup>16</sup> Public Utilities Code, Section 380(g).

<sup>17</sup> Public Utilities Code, Section 454.52(b)(3)(C).

<sup>18</sup> R.16-02-007.